



## DEPARTMENT OF ENERGY

### Southeastern Power Administration

#### Proposed Power Marketing Policy, Public Forum, and Opportunities for Public Review and Comment for the Jim Woodruff System Project

**AGENCY:** Southeastern Power Administration, DOE.

**ACTION:** Notice of proposed power marketing policy.

**SUMMARY:** Southeastern Power Administration (Southeastern) proposes a Power Marketing Policy for the Jim Woodruff System Project pursuant to Notice published in the *Federal Register* of August 5, 2022, and in accordance with Procedure for Public Participation in the Formulation of Marketing Policy published July 6, 1978. The proposed power marketing policy will be implemented through contracts for terms not to exceed 10 years. Additionally, opportunities will be available for interested persons to review the proposed Power Marketing Policy, to participate in a public forum and to submit additional written comments. Southeastern will evaluate all comments received in this process.

**DATES:** Written comments are due on or before June 23, 2023. A public information and comment forum will be held via a virtual web based meeting to allow maximum participation June 8, 2023. Persons desiring to attend the forum should notify Southeastern by June 1, 2023, so a list of forum participants can be prepared. Persons desiring to speak at the forum should specify this in their notification to Southeastern; others may speak if time permits. Notifications should be submitted by email to [Comments@sepa.doe.gov](mailto:Comments@sepa.doe.gov). If Southeastern has not been notified by close of business on June 1, 2023, that at least one person intends to be present at the forum, the forum may be canceled with no further notice.

**ADDRESSES:** Written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia, 30635-6711; Email: [Comments@sepa.doe.gov](mailto:Comments@sepa.doe.gov). The public information and comment forum for the Jim

Woodruff System Project will take place via a virtual web based meeting.

**FOR FURTHER INFORMATION CONTACT:** Carter Edge, Assistant Administrator for Finance and Marketing, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia, 30635, (706) 213-3800; Email: [carter.edge@sepa.doe.gov](mailto:carter.edge@sepa.doe.gov).

**SUPPLEMENTARY INFORMATION:** Notice of intent to create a marketing policy for future disposition of power from the Jim Woodruff System was published in the *Federal Register* August 5, 2022 (87 FR 48016). The notice advised interested parties to provide comments and proposals in formulating the proposed marketing policy. Comments and proposals were accepted through October 4, 2022. Comments were received from two interested parties.

Written comments were received from Seminole Electric Cooperative, Inc. and Southeastern Federal Power Customers, Inc. (SeFPC) are summarized below. Southeastern's responses are also provided.

**Comment 1:** Seminole Electric Cooperative, Inc. is interested in receiving allocation of power and energy generated at Jim Woodruff Lock and Dam, if such power were deemed available.

**Response 1:** Southeastern does not expect any additional power or energy to be available to be allocated. Southeastern has included a mechanism in the proposed policy to allow power and energy to be allocated should any become available in the future.

**Comment 2:** SeFPC encourages Southeastern to follow the statutory guidance in the Flood Control Act of 1944, 16 U.S.C. 825s, to market the output of the Jim Woodruff Project to eligible “preference customers.”

**Response 2:** Southeastern will follow the guidance in the Flood Control Act of 1944.

**Comment 3:** SeFPC encourages the marketing plan include the following important components:

1. Limiting the marketing plan to the Jim Woodruff Project. SEPA has previously rejected calls to create an integrated marketing area for all power available from Corps multipurpose projects in the Southeast. This approach should be followed with the marketing plan for the Jim Woodruff Project.
2. Extend allocations to preference customers with existing contracts. In revising marketing plans for the Georgia-Alabama-South Carolina system of projects, SEPA offered allocations to existing customers.
3. Refrain from allocating the output of the Jim Woodruff project on a pro rata basis to all potential preference customers. Although the Flood Control Act of 1944 calls for allocations to promote “widespread use,” SEPA has previously reconciled that responsibility with the obligation to allocate power consistent with sound business principles. In this context, SEPA must recognize that the limited output of the Jim Woodruff Project requires allocations that provide a meaningful rather than marginal benefit.

**Response 3:** Jim Woodruff could be integrated financially, hydraulically and electrically with the GA-AL-SC System of projects to provide back stand service to this single-project, run-of-the-river system. Preliminary discussions with the transmission provider indicate a 70% increase in the amount of purchased power costs passed through to the customer each month without integration under the Open Access Transmission Tariff. However, delivering federal hydropower at the project busbar and providing a pro rata reduction in energy deliveries in lieu of replacement power is being proposed as a solution to maintain the Jim Woodruff system financially, electrically, and hydraulically independent of any other Southeastern system.

Southeastern does not expect any additional power or energy to be available to be allocated. Southeastern has included a mechanism in the proposed policy to allow power and energy to be allocated should any become available in the future. Southeastern has historically determined a meaningful level to be 500kW.

**Comment 4:** SeFPC notes Southeastern may look to adopt marketing criteria used by the Western Area Power Administration (“WAPA”) in recent marketing plans to determine allocations of power from projects within the WAPA marketing area. In recent marketing plans, WAPA included criteria requiring an allottee to have utility status and be “ready willing and able” to utilize the allocation of power. This approach has promoted widespread use of preference power and ensured that the benefits of an allocation of power are provided to entities that may need to address legal impediments prior to using an allocation.

**Response 4:** Southeastern defers to the opinion of US Attorney General, Herbert Brownell, Jr. at 41 Op. Att’y Gen.236 (1955) regarding the criteria for preference eligible customers.

**Comment 5:** SeFPC supports the development of a marketing policy that incorporates equitable considerations in the allocation of power. Here, the Administrator should give consideration to the financial contribution that existing customers have made in repaying the Federal debt associated with the Jim Woodruff Project.

**Response 5:** Southeastern values the long-standing relationship it has with its customers and recognizes the \$42.183M Cumulative Repayment and \$1.45M allocated to Customer Funding provided through their payments for federal hydropower. The Total Remaining Investment of \$43.358M represents a commitment to continue providing clean, carbon-free, cost-based power to our customers.

**Comment 6:** SeFPC encourages Southeastern to adopt each proposed component outlined above in the marketing policy for the Jim Woodruff Project.

**Response 6:** Southeastern has duly considered each proposal and has either adopted or rejected and provided rationale for each in developing the draft marketing policy for the Jim Woodruff Project.

*General:* The project and power products subject to this policy are:

*Project:*

| <b>Name</b>               | <b>Capacity (kw)</b> | <b>Average Energy (MWh)</b> | <b>Energy Attribute</b>      |
|---------------------------|----------------------|-----------------------------|------------------------------|
| Jim Woodruff Lock and Dam | 36,000               | 193,530                     | Renewable Energy Certificate |

This Power Marketing Policy for electric power and energy not required in the operation of Jim Woodruff Lock and Dam will replace the arrangements in the contract between Duke Energy Florida and Southeastern Power Administration (Southeastern) dated July 19, 1957 (Rate Schedule No. 65), which provided for a fair and reasonable arrangement for the circumstances prevailing at the time the power was sold. Arrangements for the sale, purchase, wheeling and firming of power from the Jim Woodruff Lock and Dam will be implemented as soon as contract revisions pursuant to this policy can be negotiated.

The Final Marketing Policy will be implemented through contracts for terms not to exceed 10 years.

Deliveries will be made at the project bus bar. The project will be hydraulically, electrically, and financially integrated as a single project system and will be operated to make maximum contribution to the respective utility areas. Preference in the sale of the power will be given to public bodies and cooperatives.

*Marketing Area:* Southeastern's marketing area shall be the entire state of Florida. The marketing area contains 52 eligible public bodies and cooperatives, as listed on Appendix A attached hereto.

*Allocations of Power:* It is Southeastern's goal to allocate all available and usable system power (that power remaining after provision for reserves and losses) to preference customers.

As to the power sold to the existing preference customers prior to contracts executed to implement this policy, each existing preference customer within the Duke Energy Florida service area will continue with its allocated share of the marketed capacity and resulting pro-rata share of the associated energy. Current capacity allocations are summarized below:

|                           |           |
|---------------------------|-----------|
| Talquin Elec. Coop.       | 13,500 kW |
| City of Quincy            | 8,400 kW  |
| Tri County Elec Coop      | 5,200 kW  |
| Suwannee Valley Elec Coop | 4,800 kW  |
| Central Florida Elec Coop | 2,300 kW  |
| City of Chattahoochee     | 1,800 kW  |

Southeastern does not expect any additional capacity or energy to be marketable from the project in the foreseeable future. However, both existing and preference-eligible customers will be eligible to share equitably in any capacity remaining after reductions for reserves, losses or capacity and energy relinquished by existing customers. Allocations of any newly available power and energy to a particular preference customer will be based on the relationship of such customer's maximum 2020 demand to the sum of the 2020 maximum demands of all preference customers sharing such power so long as such customer demand is expected to be and will be treated hereunder in each month as not less than 500 kilowatts. Southeastern recognizes that West Florida Electric Cooperative Association Incorporated was previously included in Jim Woodruff allocations but is now served by Southeastern's GA-AL-SC system. For allocation purposes, they will be treated as if they are a preference-eligible customer.

There will be times when hydraulic conditions reduce the operating head or the available streamflow of the project and not all the allocated capacity can be made available. The power available from the project shall be reduced, pro-rata based on project capability.

*Renewable Energy Certificates (RECs):* Southeastern has included a process for REC distribution in this marketing policy. The REC distribution process will not impact power allocation within the System marketing area.

The M-RETS Tracking System creates and tracks certificates reporting generation attributes, by generating unit, for each megawatt-hour (MWh) of energy produced by registered

generators. The System project is registered within M-RETS. The RECs potentially satisfy Renewable Portfolio Standards, state policies, and other regulatory or voluntary clean energy standards in a number of states. Southeastern has subscribed to M-RETS and has an account in which RECs are collected and tracked for each MWh of energy produced from the System. Within M-RETS, certificates can be transferred to other M-RETS subscribers or to a third-party tracking system. M-RETS creates a REC for every MWh of renewable energy produced, tracks the life cycle of each REC created, and ensures against any double counting or double-use of each REC.

*REC Distribution:* M-RETS (or a successor application) will be the transfer mechanism for all RECs related to the System. Southeastern shall maintain an account with M-RETS and collect RECs from the generation at the System project. Southeastern will verify the total amount of RECs each month. Preference Customers with an allocation of power from the System are eligible to receive RECs by transfer from Southeastern's M-RETS account to their M-RETS account or that of their agent. Transfers to each customer will be based on the customer's monthly invoices during the same three-month period (quarter). All RECs distributed by Southeastern shall be transferred within forty-five days of the end of a quarter. Each customer must submit to Southeastern, by the tenth business day after the quarter, any notice of change to M-RETS account or agent. Any REC transfers that were not claimed, or if a transfer account was not provided to Southeastern, will be forfeited if they become nontransferable as described in the M-RETS terms of service, procedures, policies, or definitions of reporting and trading periods, or any subsequent rules and procedures for transfers as established. The initial transfer process in M-RETS will be accomplished by the sixtieth day after the end of the first completed quarter subsequent to publication of the final policy.

Any balance of RECs that exist in Southeastern's M-RETS account, other than the first quarter after policy revision publication, may also be transferred to Preference Customers according to the customer's invoiced energy at the time of the REC creation.

*Rates:* No rates shall be established by Southeastern for RECs transferred to Preference Customers. Any cost to Southeastern, such as the M-RETS subscription, will be incorporated into marketing costs and included in recovery through the energy and capacity rates of the System.

*Utilization at Utility Systems:* In the absence of transmission facilities of its own, Southeastern may use area generation and transmission systems as may be necessary to dispose of system power under reasonable and acceptable marketing arrangements. Utility systems providing such services shall be entitled to adequate compensation.

*Wholesale Rates:* Rate schedules shall be drawn to recover all costs associated with producing and transmitting the power in accordance with then current repayment criteria. Production costs will be determined on a system basis and rate schedules will be related to the integrated output of the project. Rates schedules may be revised periodically.

*Resale Rates:* Resale rate provisions requiring the benefits of Southeastern's power to be passed on to the ultimate consumer will be included in each customer contract with Southeastern which provides for Southeastern to supply more than 25 percent of the customers' total power requirements during the term of the contract.

*Conservation Measures:* Each customer purchasing Southeastern's power shall agree to take reasonable measures to encourage the conservation of energy by ultimate consumers.

*Appendix A: Preference-eligible customers*

| <b>Municipals</b>                              | <b>2020 Peak Load MW</b> |
|--|--------------------------|
| Alachua  | 28                       |
| Bartow   | 60                       |
| Blountstown                                    | 8                        |
| Bushnell                                       | 6                        |
| Chattahoochee                                  | 6                        |
| Clewiston                                      | 22                       |
| Fort Meade                                     | 10                       |
| Fort Pierce                                    | 113                      |
| Gainesville                                    | 410                      |
| Green Cove Springs                             | 24                       |
| Havana   | 7                        |
| Homestead Energy Services                      | 115                      |
| JEA formerly Jacksonville Electric Authority   | 2,658                    |
| Jacksonville Beach dba Beaches Energy Services | 168                      |
| Keys Energy Services formerly Key West         | 145                      |
| Kissimmee                                      | 374                      |
| Lake Worth Beach                               | 96                       |
| Lakeland Electric                              | 667                      |
| Leesburg                                       | 118                      |
| Moore Haven                                    | 4                        |
| Mount Dora                                     | 23                       |
| New Smyrna Beach                               | 105                      |
| Newberry                                       | 9                        |
| Ocala  | 314                      |
| Orlando  | 1,294                    |
| Quincy   | 28                       |
| Reedy Creek Utilities                          | 166                      |
| St. Cloud                                      | 186                      |
| Starke   | 16                       |
| Tallahassee                                    | 616                      |
| Vero Beach                                     | 180                      |
| Wauchula                                       | 14                       |
| Williston                                      | 8                        |
| Winter Park                                    | 94                       |

| <b>Cooperatives</b>                          | <b>2020 Peak Load MW</b> |
|--|--------------------------|
| Central Florida Electric Cooperative         | 131                      |
| Choctawhatchee Electric Cooperative (CHELCO) | 219                      |
| Clay Electric Cooperative                    | 788                      |
| Escambia River Electric Cooperative          | 43                       |
| Glades Electric Cooperative                  | 60                       |
| Gulf Coast Electric Cooperative              | 86                       |
| Lee County Electric Cooperative              | 970                      |
| Okefenoke Electric Cooperative               | 178                      |
| Peace River Electric Cooperative             | 205                      |
| PowerSouth Energy Cooperative (G&T)          | 2,027                    |
| SECO Energy (Sumter Electric Coop)           | 865                      |
| Suwannee Valley Electric Cooperative         | 119                      |
| Talquin Electric Cooperative                 | 213                      |
| Tri-County Electric Cooperative              | 60                       |
| West Florida Electric Cooperative            | 123                      |
| Withlacoochee Electric Cooperative           | 1,002                    |
| Florida Keys Electric Cooperative            | 156                      |
| Seminole Electric Cooperative (G&T)          | 3,409                    |

### **Legal Authority**

The policy is developed under authority of section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, and section 302(a) of the Department of Energy Organization Act of 1977, 42 U.S.C. 7152.

This power marketing policy was developed in accordance with the Procedure for Public Participation in the Formulation of Marketing Policy published July 6, 1978, 43 FR 29186.

### **Environmental Impact**

Southeastern has determined this action fits within the following categorical exclusions listed in appendix B to subpart D of 10 CFR part 1021: B4.1 (Contracts, policies, and marketing and allocation plans for electric power). Categorically excluded projects and activities do not require preparation of either an environmental impact statement or an environmental assessment.

### **Determination Under Executive Order 12866**

Southeastern has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

### **Signing Authority**

This document of the Department of Energy was signed on March 31, 2023, by Virgil G. Hobbs III, Administrator for Southeastern Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on April 4, 2023.

**Treena V. Garrett,**  
*Federal Register Liaison Officer,*  
*U.S. Department of Energy.*

[FR Doc. 2023-07379 Filed: 4/6/2023 8:45 am; Publication Date: 4/7/2023]